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U-007-305.5

**OU#5 ACCESS DISPUTE
U.S. DOE - FERNALD
OH6 890 008 976**

01/17/91

**USEPA/DOE-FMPC
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LETTER
OU5**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

1159

CC: ERA File
AR File

JAN 17 1991

REPLY TO ATTENTION OF:

SHR-12

Mr. Andrew P. Avel
United States Department of Energy
Feed Materials Production Center
P.O. Box 398705
Cincinnati, Ohio 45239-8705

RE: OU#5 Access Dispute
U.S. DOE - Fernald
OH6 890 008 976

Dear Mr. Avel:

Recently, there has been confusion regarding the elevation of the United States Department of Energy's (U.S. DOE) dispute on the application of stipulated penalties for access violations to the Dispute Resolution Committee.

Procedures for the elevation of such disputes are found in Section XIV of the 1990 Consent Agreement. As presented in a January 8, 1991, letter, the United States Environmental Protection Agency (U.S. EPA) continues to assert that U.S. DOE did not properly elevate its dispute as prescribed by the 1990 Consent Agreement. However, in light of U.S. DOE's January 9, 1991, letter, U.S. EPA agrees to consider the dispute open eventhough U.S. DOE handled elevation of U.S. DOE's dispute of Operable Unit #4 Remedial Investigation (RI) report and stipulated penalties according to prescribed procedures and did not follow similar procedures for this dispute. Accordingly, the dispute will remain before the Dispute Resolution Committee until January 25, 1991.

In order to prevent such problems in the future, U.S. EPA will prepare a letter for signature by William E. Muno to Gerald Westerbeck that clarifies and memorializes the procedures for dispute resolution. This letter will clarify dispute resolution procedures and will not be a modification to what was agreed in the 1990 Consent Agreement.

Please contact me at (312/FTS) 886-4436, if you have any questions.

Sincerely,

Catherine A. McCord
Remedial Project Manger

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cc: Acting Director, OEPA
Graham Mitchell, OEPA-SWDO
Leo Duffy, U.S. DOE
Joe LaGrone, U.S. DOE